

# **EDMONDS CITY COUNCIL MINI RETREAT APPROVED MINUTES June 17, 2013**

The Edmonds City Council retreat was called to order at 8:30 a.m. on Monday, June 17, 2013 in the Brackett Meeting Room, City Hall, 121 5<sup>th</sup> Avenue North, Edmonds, Washington. The meeting was opened with the flag salute.

## **ELECTED OFFICIALS PRESENT**

Dave Earling, Mayor  
Lora Petso, Council President  
Strom Peterson, Councilmember  
Joan Bloom, Councilmember  
Kristiana Johnson, Councilmember  
Adrienne Fraley-Monillas, Councilmember  
Diane Buckshnis, Councilmember

## **ELECTED OFFICIALS ABSENT**

Frank Yamamoto, Councilmember

## **STAFF PRESENT**

Al Compaan, Police Chief  
Stephen Clifton, Community Services/Economic  
Development Director  
Phil Williams, Public Works Director  
Carrie Hite, Parks & Recreation Director  
Rob English, City Engineer  
Kernen Lien, Senior Planner  
Jeff Taraday, City Attorney  
Sandy Chase, City Clerk  
Jana Spellman, Senior Executive Council Asst.  
Jeannie Dines, Recorder

## **1. ROLL CALL**

City Clerk Sandy Chase called the roll. All elected officials were present with the exception of Councilmember Yamamoto.

## **2. APPROVAL OF AGENDA**

**COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO APPROVE THE AGENDA. MOTION CARRIED UNANIMOUSLY.**

## **3. AUDIENCE COMMENTS**

There were no members of the public present who wished to provide comment.

## **4. MISCELLANEOUS COUNCIL BUSINESS**

### **Volunteer Recognition**

Councilmember Johnson announced the first annual volunteer appreciation picnic is scheduled on August 25 at 1:30 p.m.; it will be followed by the last concert of the season that begins at 3:00 p.m. A budget for the event is being prepared. A signup sheet to assist with setup, cooking, cleanup, etc. will be circulated. The event will be limited to board and commissions that serve the Mayor and Council. An announcement will be emailed to volunteers and she encouraged Councilmembers to extend an invitation to members of the boards/commissions they serve on.

### Committee Meeting Room Change

Council President Petso relayed a request to change the meeting location for the Finance Committee due to the number of people that attend these meetings.

*Summary: Beginning next month, the Finance Committee will meet in Council Chambers and the Parks, Planning and Public Works Committee will meet in the Jury Meeting Room.*

### Process for Amending Resolutions and Ordinances

Council President Petso explained this issue arose as a result of an ordinance that was amended and adopted at a Council meeting. The result was the Council saw the changes made to the ordinance only after it was published and emailed to Councilmembers. She suggested returning to the previous practice; when changes were made to an ordinance at a Council meeting, final approval of the ordinance was scheduled on a subsequent Consent Agenda. City Attorney Jeff Taraday explained there may be practical reasons not to always follow that practice such as an emergency, moratoria or interim zoning ordinances. He recalled it has been the practice to schedule amended ordinances on the Consent Agenda; a recent interim ordinance regarding public markets was approved with amendments at the Council meeting because it was time sensitive.

Discussion followed regarding past practice, concern the Council's intent may not have been captured via the amendment to the ordinance, instances where amendments have been made to an ordinance at a Council meeting, and concern with a Councilmember pulling an ordinance from the Consent Agenda and reopening discussion.

*Summary: The standard practice will be for an amended ordinance to come back on the Consent Agenda; in the case of an interim or emergency ordinance, amendments will be made, the ordinance adopted and published with amendments as Council directs. When pulling an ordinance/resolution from the Consent Agenda to vote against it, Councilmembers committed to simply voting against it and not reopening discussion.*

### Posting of Committee Minutes

City Clerk Sandy Chase reported recent committee meeting minutes are now available on the Council's webpage and staff is in the process of adding past minutes.

### Report on Meetings Regarding Port of Edmonds and Harbor Square Master Plan

Council President Petso reported she talked with each Councilmember one-on-one regarding how they wanted to move this project forward. She recalled Mr. Taraday provided the Council four options at the May 7, 2013 Council meeting, 1) approve as submitted, 2) approve with modifications (create a subarea plan), 3) deny the plan, or 4) resolve to take no action. In her discussions with Councilmembers, she found little support for option 1. She found some interest in option 2, but there is little consensus regarding what the subarea plan would look like and Mayor Earling has indicated staff does not have time to assist with preparing a subarea plan. An alternative under option 2 is to create a plan at a conceptual, Comprehensive Plan level but there is not a consensus regarding what that would look like. With regard to option 3, two previous votes failed. Option 4, available to the Council because the Port withdrew their Comprehensive Plan amendment, would be accomplished via a motion to discontinue the process.

City Attorney Jeff Taraday explained the City Council has an obligation to have zoning consistent with the Comprehensive Plan. That does not necessarily mean the Council is required to approve a zoning proposal made by an applicant if the zoning proposal is consistent with the Comprehensive Plan. To the extent the Council is concerned about risk with not adopting a zoning proposal when the proposal is consistent, one way of reducing that risk would be to modify the proposal in a way that it is still consistent and implements the Comprehensive Plan or adopt the proposed zoning at the same time as the Comprehensive Plan. The problem is this area may not be large enough to qualify as an area-wide rezone.

Mr. Taraday described the procedural differences; a site specific rezone is quasi-judicial and an area-wide rezone is a legislative process similar to the Comprehensive Plan amendment process. With a legislative process, the Council can have as many hearings as they wish, there is no 120 day timeline, and Councilmembers have the ability to interact with constituents, etc. Unfortunately there is no bright line in Washington State law between area-wide and site specific rezones. If the Council wants to explore an area-wide rezone at the same time as a Comprehensive Plan amendment, he could research that further and provide a recommendation. One of the factors considered is whether the property is in single ownership; if so, it tends toward site specific. The City Council may want to consider including other properties in addition to Harbor Square; including more properties makes a stronger argument for an area-wide rezone.

Discussion followed regarding Exhibit 2 as a comprehensive subarea plan, adopting development standards prior to considering a development agreement; amending a development agreement once a developer is identified; coordination with the Shoreline Master Program; need for consistency between the Comprehensive Plan, SMP and zoning; SMP as currently drafted is not consistent with the existing Harbor Square contract rezone; limited ability for the Council to interact with citizens in a quasi-judicial process; and ability to modify the proposal as long as it is consistent with the Comprehensive Plan.

*Summary: Over the next 3 weeks Councilmembers consider how they want the Harbor Square Master Plan to come back. Doing nothing is not an option.*

#### Citizen Requests

Council President Petso relayed the following citizen requests:

- The Council approve a resolution in support of Initiative 522 regarding genetically modified foods. Councilmembers Peterson and Fraley-Monillas offered to pursue this request.
- With regard to cat roaming, Animal Control would like the ability to issue tickets for cats that are a nuisance; cats are currently excluded. The Public Safety and Personnel Committee has considered the topic and is split. It was the consensus of the Council to bring removal of the cat exclusion to Council for a public hearing and decision.

#### **5. TRAINING – CLOSED RECORD REVIEW**

City Attorney Jeff Taraday provided training regarding Closed Record Review, using the Court of Appeals case, City of Mercer Island v. Citizens to Preserve Pioneer Park regarding a monopoly. He provided the facts of the case, Mercer Island's general variance criteria and criteria regarding cellular pole heights, the Planning Board's recommendation, the cell provider's appeal to City Council, the City Council's decision on appeal, neighbors' LUPA appeal, Superior Court decision, carrier's appeal to the Court of Appeals, the decision the Court of Appeals was considering (the City Council's), and ways the Council can mess up (procedural error, erroneous interpretation of law, insufficient evidence to support a decision, erroneous application of law to facts, decision outside of authority, and decision violates constitutional rights of party seeking relief). He reviewed issues the Court of Appeals considered and the Court's decision on each.

#### **6. TRAINING – PUBLIC RECORDS AND RETENTION**

City Clerk Sandy Chase introduced two experts in the field of public records and retention, Patricia Taraday, Lighthouse Law Group, and Megan Shoemaker, Lead Branch Archivist, Washington State Archives' NW Regional Branch. Ms. Chase explained a brief presentation was made to the Council at the February retreat; there were follow-up questions regarding the responsibility of the Council with regard to public records and retention.

Patricia Taraday, Lighthouse Law Group, explained the intent of the training was to provide a better understanding of the reach of the Public Records Act (PRA) and a better understanding of how the PRA relates

to the role of a Councilmember. She noted anything that relates to Councilmembers, also relates to Board and Commission Members.

Ms. Taraday described what is a public record, what if the record is personal, what is considered a “writing,” how the PRA pertains to City Councilmembers, the best practice of using a City email account when conducting City business, how far does the PRA reach, O’Neill v. City of Shoreline, and penalties for violating the PRA. She summarized: the PRA pertains to the role of a Councilmember, Board Member or Commissioner; writings created or received should be retained according to retention schedules, don’t delete or alter if a request is pending, and if possible use City issued email accounts because email is retained by the server.

Ms. Taraday responded to Councilmembers questions regarding inadvertent use of personal email, Board Members and Commissioners concern with past use of personal computers, exemption for sensitive information, and handling email sent to personal accounts. City Attorney Jeff Taraday summarized the best way to avoid search of a personal computer was to use the City-provided email account.

Megan Shoemaker, Lead Branch Archivist & Records Consultant, NW Regional Branch, described the Council’s responsibly regarding records retention. She described legal requirements, what is a record, disposition authority, considerations for electronic records, definition of a public record in RCW 40.14, what is a public record, and the Public Records Act (RCW 40.14).

Ms. Shoemaker explained retention in a nutshell: retain all public records for the minimum retention period that applies to the record, destroy if not archival or transfer to Washington State Archives if archival. She encouraged Councilmembers to familiarize themselves with retention schedules. She explained retention value is determined by the content and function of the record, rules apply to all formats, and rules apply to all public employees/officials/volunteers. She described archival records and transferring to the State Archives. She responded to Councilmembers’ questions regarding retention, records with archival designation, and retention of Council mail.

*Summary: Council President Petso will discuss with Senior Executive Council Assistant Jana Spellman how to handle Council mail received in the Council office.*

## **7. TRAINING – ELECTIONS / GUIDELINES FOR ELECTED OFFICIALS**

Patricia Taraday, Lighthouse Law Group, referred to the Public Disclosure Commission (PDC) materials provided to Councilmembers, explaining the guidelines are very informative and a great reference. The PDC’s website is also a great resource. She described activities governed by statute (RCW 42.17A.555) and exceptions. She invited Councilmembers to contact her with any questions.

Discussion followed regarding extension of the guidelines to Boards and Commissions with regard to using City resources to oppose/support a ballot measure or candidate and the Council’s current practice of not allowing public comment regarding candidates or ballot measures at Council meetings.

Mr. Taraday advised his current leaning would be not to stifle public comment regarding candidates or ballot measures, preferring the Council err on the side of allowing First Amendment protected speech. He acknowledged this could result in large numbers of people providing comment at Council meetings. If that occurred, the Council may want to think about when on the agenda public comment is scheduled; it could be moved to the end of the meeting. Discussion followed regarding policies regarding content aired on the government access channel, wording on the reverse side of the Council agenda regarding prohibition of public comment which promotes or opposes candidates for public office or ballot measures except during the course of a public hearing.

*Summary: Mr. Taraday advised Lighthouse Law Group could research this issue further.*

**8. PRESENTATION REGARDING SR-104, INCLUDING IMPLICATIONS FOR REDEVELOPMENT AT WESTGATE.**

Councilmembers and Mayor Earling introduced themselves. Councilmember Johnson introduced Paula Reeves, Manager, WSDOT Community Design Assistance, and described her background. Ms. Reeves introduced Ian Macek, Bicycle and Pedestrian Coordinator, and Jill Sterritt, UW Professor.

Ms. Reeves described WSDOT's local programs division, explaining what they do includes retrofitting streets for everyone and redesigning "stroads." She described typical Complete Street elements, milestones in federal and state policy, WSDOT's Context Sensitive Design Policy, 2011 Complete Streets Act, and 2012 Design Flexibility Bill. She provided a map of Main Street Highways (state highways that operate as city streets) such as Edmonds Way. She described who has jurisdiction over what and where, highway purpose (RCW 47.30), general design principles, types of arterials, increased interest in biking and walking, and the need for accessible streets.

Ms. Reeves explained walkability is where the money is. She provided a map of SR 104 rents and walkscores and a comparison of rents and walkscores in Wedgwood, Green Lake and Queen Anne, Tribeca, New York and Mission Neighborhood in San Francisco.

Mr. Macek described and provided examples of specific opportunities.

- Boulevard
- Sidewalks and accessibility
- Crossing treatments
- Pedestrian scale lighting
- Safe routes to transit
- Bike lane treatments
- Sidepaths and greenways
- Bicycle boulevard or neighborhood greenway
- Bicycle parking

Mr. Macek described the importance of partnerships and potential funding sources such as MAP-21 Programs for Washington State, State Bicycle and Pedestrian Program, Safe Routes to School Program and other grant resources.

In response to questions that have been raised about the future of SR 104 and plans for the corridor, Ms. Reeves explained WSDOT does not foresee any capacity improvements for SR 104 in any of their 20-year transportation horizons. The Edmonds ferry terminal is in WSDOT's plans for 2030.

Mayor Earling thanked the State for working with the City regarding a hot signal at SR 104 and Pine. He explained a transportation assessment was done of SR 104 in the Westgate area in 2012; he distributed a technical memorandum that states the study does not foresee any need for additional right-of-way in the area of SR 104 and 100<sup>th</sup>.

Discussion followed regarding options identified via this presentation that were not included in the Westgate Plan, staff's interest in opportunities to use Complete Streets, amount of right-of-way often a determinant, concern WSDOT did not plan to make any capacity improvements when there were significant bottlenecks such as at 76<sup>th</sup> & SR 104 and 100<sup>th</sup> & SR 104 that generate cut-through traffic, and ways to address bottlenecks and/or cut-through traffic without capacity improvements.

*Summary: Schedule a workshop with WSDOT.*

**9.      MAYOR’S COMMENTS**

Mayor Earling had no report.

**10.     COUNCIL COMMENTS**

Council President Petso thanked Ms. Chase and Ms. Spellman for helping organize the retreat. She also thanked the presenters and staff.

**11.     ADJOURN**

The retreat was adjourned at 12:00 p.m.